

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

AHMED ABDI MOHAMED,

Civil No. 13-01030 (SRN/JJG)

Petitioner,

v.

REPORT AND RECOMMENDATION

**JANET NAPOTTANO, Secretary of
Homeland Security, ERIC HOLDER,
Attorney General of the United States,
SCOTT BANIECKE, Field
Officer/Director, Immigrations and
Customs Enforcement, BOB
KINDLER, Warden of Freeborn
County Jail,**

Respondents.

JEANNE J. GRAHAM, United States Magistrate Judge

Petitioner Ahmed Abdi Mohamed (“Petitioner”) is a citizen of Somalia who came to the United States as a refugee. Following Petitioner’s felony convictions, an immigration judge ordered Petitioner detained until he could be removed to Somalia. Petitioner subsequently filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In this petition, he challenges the length of his detention. On June 21, 2013, Immigrations and Customs Enforcement (ICE) removed Petitioner from the United States to Somalia. As such, the Court recommends that his petition be dismissed as moot.

I. Background

Petitioner arrived in the United States as a Somali refugee in 2001. (Pet., May 1, 2013, ECF No. 1.) Between August 4, 2009, and March 12, 2010, Petitioner was convicted

of several crimes, including violation of Minn. Stat. § 609.52, subd. 2(17) (taking a motor vehicle without consent) and Minn. Stat. § 609.224 subd. 4(b) (fifth degree assault). (Olson Decl. Ex. 1-2, June 3, 2013, ECF No. 4-1.) These crimes are felonies. On August 8, 2012, Petitioner was turned over to ICE and on September 20, 2012, an immigration judge ordered Petitioner to be removed from the United States to Somalia pursuant to § 237(a)(2)(A)(iii) of the Immigration and Nationality Act. (Olson Decl. Ex. 3.) Petitioner did not appeal. (Pet. ¶ 8.)

ICE maintained custody of Petitioner pending his removal. On December 17, 2012, ICE reviewed Petitioner’s detention and determined that release would be inappropriate because “[Petitioner] appears to be a threat to the community.” (Pet. at 10.) On March 21, 2013, ICE again reviewed Petitioner’s detention and determined that release would be inappropriate because Petitioner’s removal to Somalia was expected to occur in the near future. (*Id.* at 9.) Petitioner filed for a writ of habeas corpus on May 1, 2013. Petitioner was removed to Somalia on June 21, 2013. (Supplemental Olson Decl. ¶ 1.) ICE now requests that the petition be dismissed as moot for lack of subject matter jurisdiction. (Resp’t’s Return, July 12, 2013, ECF No. 6.)

II. Discussion

The question is whether Petitioner’s removal to Somalia renders his request for release from detention moot. Federal courts have jurisdiction over cases and controversies. U.S. Const. art. III, § 2. However, the controversy “must exist throughout the litigation; otherwise the case is moot. Federal courts lack power to decide the merits of a moot case.”

Ams. United for Separation of Church & State v. Prison Fellowship Ministries, Inc., 509

F.3d 406, 421 (8th Cir. 2007) (internal citations omitted). Courts in the District of Minnesota have held that if a petitioner for a writ of habeas corpus has been removed from the United States, the petition becomes moot. *See, e.g., Hassan v. ICE*, No. 13-cv-841 (PJS/LIB), 2013 U.S. Dist. LEXIS 110401, at *4 (D. Minn. July 1, 2013) (“The District of Minnesota is one of several U.S. District Courts that have concluded that a petitioner’s actual removal from the United States renders moot that petitioner’s habeas claims related to his detention prior to removal.”), *report and recommendation adopted*, 2013 U.S. Dist. LEXIS 108075 (D. Minn. Aug. 1, 2013). The Eighth Circuit has similarly held that an application for a writ of habeas corpus is moot upon the release of the petitioner because the petitioner “arguably received the relief he requested.” *Ali v. Cangemi*, 419 F.3d 722, 724 (8th Cir. 2005).

Petitioner did not appeal the decision of the immigration judge and, as such, this case solely concerns Petitioner’s Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241. There, Petitioner requested to be released from ICE custody pending his removal to Somalia. Petitioner has already been removed to Somalia and therefore his request for release pending removal is moot.

III. Recommendation

Based on all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. Petitioner’s Petition for a writ of habeas corpus (ECF No. 1) **BE DISMISSED AS MOOT.**

2. This matter be dismissed in its entirety and **JUDGMENT
ENTERED ACCORDINGLY.**

Dated: September 30, 2013

s/ Jeanne J. Graham
JEANNE J. GRAHAM
United States Magistrate Judge

NOTICE

Pursuant to District of Minnesota Local Rule 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **October 21, 2013**. A party may respond to the objections within fourteen days after service thereof. Any objections or responses shall not exceed 3,500 words. The district judge will make a de novo determination of those portions of the Report and Recommendation to which objection is made.